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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

PAUL PAPADAKIS,)
Plaintiff,)
VS.) C.A. NO. 04-30189-MAP
CSX TRANSPORTATION, INC.,)
Defendant.)

DEPOSITION OF EDWARD FELDMANN, M.D.,
taken on behalf of the Plaintiff, Expert
Witness in the above-entitled cause,
pursuant to notice, before Nancy L. Simoes,
R.P.R., a Notary Public in and for the
State of Rhode Island, at the Offices of
Allied Court Reporters, 115 Phenix Avenue,
Cranston, Rhode Island, on January 5, 2006,
scheduled at 2:00 P.M.

PRESENT:

For the Plaintiff.....THORNTON & NAUMES, LLP
100 Summer Street, 30th Fl.
Boston, MA 02110
By: Robert M. Byrne, Jr., Esquire

For the Defendant.....FLYNN & ASSOCIATES, P.C.
400 Crown Colony Drive, Ste. 20
Quincy, MA 02169
By: Valerie A. Murphy, Esquire

ALLIED COURT REPORTERS, INC.
115 PHENIX AVENUE
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1 Q. You found nothing in the historical record or in
2 your interviewing of Mr. Papadakis to suggest that
3 any time prior to June 13, 2001, he was suffering
4 from a condition to his lumbar spine that was
5 limiting his ability to engage in his normal
6 activities, work, socializing, recreating, so
7 forth?

8 A. The way you word it, I would say no. He had
9 films of his low back done as early as 1969; we
10 don't know why. One of his doctors placed in a
11 note his having relatively minor low back symptoms
12 at some point in the past, which quickly resolved.
13 I think the answer to your question is, no, I
14 didn't see persistent low back symptoms that
15 limited his function.

16 Q. Are you referring to a note that was in
17 Dr. Carrington's records dating back to some time
18 in the 1970s, when Mr. Papadakis appeared with some
19 low back complaints regarding a sports injury?

20 A. I think it was Dr. Carrington.

21 Q. I would like you to help me understand a little, if
22 you would, the anatomical structure of the annulus
23 fibrosis, which I think we are talking about with
24 respect to this tear; are we not?

25 A. The apparent tear seen on the first MRI?

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1 this one?

2 A. Sure. Sure.

3 Q. Was that CSX Railroad or Transportation?

4 A. I don't know. Not a clue.

5 Q. I am nearly finished here now. How shall I phrase
6 this: You have told me that you believe that
7 Mr. Papadakis was suffering some pre-existing
8 degenerative condition in his lumbar spine as of
9 June 13, 2001?

10 A. He was not suffering.

11 Q. Forgive me. That word suffering just keeps
12 creeping in my question.

13 A. You can see from my opinion that it's an
14 important word.

15 Q. I will accept that you're uncomfortable with that
16 word appearing in the question. I will take it
17 out.

18 A. Okay.

19 Q. Is it your opinion that as of June 13, 2001,
20 Mr. Papadakis had a pre-existing degenerative
21 condition in his lumbosacral spine?

22 A. Yes.

23 Q. Would you agree with me that a review of the
24 historical medical record would suggest that up
25 until that point in time, whatever that condition

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1 was, it hadn't presented pain symptoms to him as of
2 June 13, 2001?

3 A. Except for the minor incident that we
4 discussed earlier, and for whatever reason, the
5 films were done in 1969, yes.

6 Q. Okay. But the period immediately preceding, let me
7 define immediately, by ten years?

8 A. Sure.

9 Q. There had been no historical complaints in the
10 record documenting complaints of low back pain?

11 A. Right.

12 Q. But subsequent to June 13, 2001, Mr. Papadakis has
13 complained of low back pain?

14 A. Yes.

15 Q. And you believe that to some extent, at least for a
16 period, some period of time, that the events of
17 June 13, 2001, where he was bending and twisting,
18 played a causative role in that complaint of low
19 back pain?

20 A. Yes.

21 Q. But you believe that, to the extent that there was
22 an injury of June 13, 2001, it should have resolved
23 within weeks or months following that event?

24 A. Yes.

25 Q. You can't explain in medical -- provide a medical

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explanation why those complaints of pain have become chronic and continue on to the present time?

A. Well, I mean, I see it in my office. As I said, routine activity of daily living produce recurrent muscle strain. That's almost the universal explanation for this kind of story.

Q. Are you willing to acknowledge that the mechanical injury that he sustained on June 13, 2001, may have exacerbated the pre-existing condition of his low back?

A. No. There is no evidence for that.

Q. That's not something you are willing to accept as a possibility?

A. Well, there is no biological proof of that. You know, the abnormalities are chronic and degenerative in nature. It's not as if they took a film of his low back and a bone was broken, and you know, you, yourself, just said he could live for years with those abnormalities and not utter a word of complaint. You see how difficult it is looking at the picture and predicting what Mr. Papadakis looks like. You see the difficulty.

Q. Okay. I don't mean to be redundant or repetitive. He didn't have the complaints before, that's the symptom, no complaints of pain before June 13,